

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA,)
)
) Case No. 1:06CR00062
)
v.) **OPINION**
)
DAMIAN ANTONIO MURPHY,) By: James P. Jones
) United States District Judge
Defendant.)

Damian Antonio Murphy, Pro Se Defendant.

The defendant, Damian Antonio Murphy, has filed a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255. Upon review of the motion and court records, I find that the § 2255 motion must be dismissed as successive.¹

Murphy was indicted in 2006 in this court for charges of conspiring to possess with intent to distribute controlled substances and possessing counterfeit currency. He was convicted by a jury, and the court sentenced him to 262 months of imprisonment. Murphy's direct appeal was unsuccessful. *United States v. Murphy*, 552 F.3d 405 (4th Cir.), *cert. denied*, 556 U.S. 1196 (2009). Murphy then filed a § 2255 motion concerning this case. I reviewed and denied that motion as

¹ Under Rule 4 of the Rules Governing § 2255 Proceedings, the court may summarily dismiss a § 2255 motion where it is clear from the motion and the record of prior proceedings that the defendant is not entitled to relief.

without merit. *See United States v. Murphy*, No. 1:06CR00062, 2011 WL 181938 (W.D. Va. Jan. 20, 2011), *appeal dismissed*, 449 F. App'x 307 (4th Cir. 2011) (unpublished).

Murphy now brings another § 2255 motion challenging his convictions. He contends that they must be vacated under two recent Supreme Court decisions, *Rehaif v. United States*, 139 S. Ct. 2191 (2019) and *United States v. Davis*, 139 S. Ct. 2319 (2019).

This court may consider a defendant's second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria and may proceed. *See* § 2255(h). As stated, Murphy previously filed a § 2255 motion in this case that was denied as meritless. Because Murphy offers no indication that he has obtained certification from the court of appeals to pursue his current motion as a second or successive § 2255 motion, I must dismiss that motion without prejudice as successive.

A separate Final Order will be entered herewith.

DATED: June 30, 2020

/s/ James P. Jones
United States District Judge